

California Regional Water Quality Control Board
Santa Ana Region

March 31, 2000

ITEM: 11

SUBJECT: Executive Officer's Report

DISCUSSION:

1. **Joint Legislative Oversight Committee** – On February 29th, Chairman John Withers and I attended a meeting of the Joint Legislative Policy and Fiscal Oversight Committee in Sacramento. The purpose of the meeting was to give certain interested parties, invited by the legislature, an opportunity to provide the Committee with testimony concerning how well the State Board and the Regional Boards were doing in protecting the State's waters. Also in attendance were board members from each of the Regional Boards, eight of the nine Regional Board executive officers, State Board management representatives, and State Board members. Among those invited to testify to the Committee were: Mark Newton of the Legislative Analyst's Office; Alexis Strauss, Director of the Office of Water for U.S. EPA Region IX; David Beckman, an attorney for the Natural Resources Defense Council (NRDC); the Chairs and executive officers for the Los Angeles and San Francisco Bay Regional Boards; and Board Member Art Baggett and Executive Director Walt Pettit of the State Board. The Los Angeles and San Francisco Bay Regional Boards were chosen to testify because U.S. EPA audits of those two Regions had been completed.

The Committee meeting started with a statement by Assemblywoman Hannah-Beth Jackson who said that the audience would hear testimony that would be disconcerting, including the "abysmal" performance of the Los Angeles Regional Board. Senator Byron Sher began by indicating that the "lax" enforcement practices of the regional boards led to the adoption by the legislature of mandatory minimum penalty requirements for violations of NPDES permits.

The first person to testify at the hearing was Mark Newton, the Legislative Analyst for the State Water Resources Control Board program. Mr. Newton went through a concise and fair discussion of program deficiencies and the efforts being made to hire and train new staff to address many of the deficiencies.

Alexis Strauss of U.S. EPA was the next to testify, and she also indicated that the State and Regional Boards were failing to meet many of the NPDES and Storm Water Program requirements. However, she made it clear that U.S. EPA believes the deficiencies to be the result of major funding shortfalls in the

programs, not a lack of commitment or dedication of the Regional Board staffs. Assemblyman Howard Wayne asked whether U.S. EPA fully funded this federal discharge permit program, and Ms. Strauss indicated that they did not. He also asked whether these failings would lead U.S. EPA into withdrawing the delegation of the NPDES program from California. She said they are not considering this step because their own funding problems would never allow them to provide the level of expertise and public service that is currently provided under the California program. She also indicated that we must move in a slightly different direction than we have in the past. She believes that we can no longer afford to spend the same level of time and resources that we have in the past, seeking consensus with dischargers over permit issues. Our extraordinary efforts to seek consensus have caused many delays in the issuance of permits in a timely manner. She indicated that the extensive and time-consuming negotiations by dischargers are, to some extent, the result of threats of third-party lawsuits over violations of permit limits and the threats of mandatory minimum penalties for violations.

David Beckman of NRDC also testified that the Regional Boards were doing a very poor job of handling what NRDC considers to be the single largest source of water pollution: storm water and urban runoff. But he, like Ms. Strauss, also indicated that the reason for the poor job was "grossly insufficient resources" to properly run these programs. He estimated that the Los Angeles Region, by itself, was understaffed by 40 positions in the Storm Water Program.

The Chairs and executive officers of the Los Angeles and San Francisco Bay Regional Boards built on this theme, and it was clear from the comments by a majority of the Committee members that they supported increased resources for these programs and that they expected improved water quality to be the result, once the resources were provided.

In retrospect, the committee responses at this hearing seemed very fair. They never questioned the integrity or commitment of the staffs working on these programs, and they focused on the need to provide adequate resources so that the State and Regional Boards could do their jobs protecting California's water quality.

2. Dedication of Chino Basin Desalter by Santa Ana Watershed Project

Authority (SAWPA) – On March 3rd SAWPA dedicated the Chino Basin Desalter. The dedication ceremony was very well attended, and both Chairman Withers and Vice Chair Henriques participated. This project has always been extremely important to the Santa Ana Regional Board, and in fact, the Regional Board contributed an estimated \$8.8 million (cash and water rights) in support of the desalter from an enforcement settlement with the former Kaiser Steel facility in Fontana. It's expected that the desalter will extract an estimated 12 million gallons per day of salt and nitrate contaminated ground water from the Chino Basin, treat the water to drinking water standards, and supply a reliable 8 million

gallons per day of potable water for municipal and industrial uses within the Chino Basin. Salt brine will be discharged into the Santa Ana Regional Interceptor, treated by the Orange County Sanitation District, and discharged into the ocean.

The ground water of the Chino Basin has become contaminated as a result of more than 100 years of irrigated agriculture and municipal and industrial discharges throughout the basin. We know of no other way to address this contamination, other than by the extraction and treatment of the accumulated salts. The Chino Basin Watermaster is in the process of developing an Optimum Basin Management Program (OBMP) which we hope will address this contamination issue in a timely manner. Should the Watermaster fail to provide a comprehensive plan to address water quality in the Basin as required by the court, it will be necessary for the Regional Board to evaluate all possible options for requiring protection of downstream beneficial uses from the effects of contaminated ground water leaving the Chino Basin and affecting downstream uses. A Regional Board enforcement approach would be controversial, difficult, and slow. A comprehensive and voluntary approach by the Watermaster could easily implement a plan to address water quality issues in a much more timely manner. Passage of the Water Bond on March 7th provides SAWPA with funds to support an additional desalter in the Chino Basin, and we hope that this will assist the Watermaster in deciding to quickly implement basin cleanup strategies.

3. **Staff Training for CEQA and Section 401 Water Quality Certification** – On March 2nd, Steven Blum of the Office of the Chief Counsel and Tim Stevens of the State Board Division of Water Quality, provided a full day of training for Regional Board staff on the workings of CEQA and on Section 401 Water Quality Certification. Messrs. Blum and Stevens prepared an excellent Power Point presentation addressing many of the confusing details of these two important Regional Board activities, and, in addition, Regional Board staff counsel Ted Cobb traveled to Riverside and participated in this process.

Since the Regional Board must, on occasion, act as CEQA lead agency, and frequently acts in the role of CEQA “responsible agency”, the training provided excellent background information on the process and on the requirements with which this agency must comply. The State Board is in the process of changing the 401 Water Quality Certification regulations. Whereas in the past certifications were issued by the State Board Executive Director, upon adoption of the new regulations, such certifications will be delegated to the Regional Board executive officers. Mr. Blum explained a number of other Section 401 matters and the responsibilities of the Regional Boards.

This training was very well attended by staff, and there was a lively exchange of questions and comments concerning each of these matters. It was clear that there was great deal of interest in these topics, and we appreciate the efforts of OCC and DWQ to bring this information to us.

4. **Arauz Trucking Company, Manure Disposal at 22260 Kinney Street, Mead Valley, near Perris** - In the February 25, 2000 Executive Officer's Report, I reported that Board staff was in the process of selecting a contractor to remove and dispose of the manure that had been deposited on the referenced property by Arauz Trucking Company. Subsequently, Board staff selected Antonio Herera Trucking Company, and on February 26, 2000 the removal project began. To date, approximately 3,800 tons of manure have been removed. Due to the difficulty of estimating the thickness of manure on the property and within the drainage channels, the original estimate of 1,500 tons of manure at the site was revised to 5,300 tons. This increase in the total manure quantity has required Board staff to renegotiate the contract for the manure removal, which is supported by funds from the Cleanup and Abatement Account. We expect to obtain the additional funds needed and to complete the removal of the manure.

On November 19, 1999 the Board affirmed Administrative Civil Liability Complaint (ACLC) No. 99-85 against Arauz Trucking Company, in the amount of \$99,000. Arauz Trucking Company's attorney filed a petition with the State Water Resources Control Board appealing the ACLC. This petition was dismissed on March 8, 2000. Therefore, Board staff intend to file a judgement lien with the Court against Arauz Trucking Company in order to secure payment of the ACLC penalty.

5. **Status of Staff Recruitment Efforts** – As we have previously reported to you, we experienced a significant increase in our budget this fiscal year. This has allowed us to hire new staff, after several years where our budget and staffing remained relatively constant. We have been working hard to fill all of our new positions, and as a result, the number of permanent, full-time staff on board has increased to 63 (from 52 in July 1999). In addition, we still have seven vacancies left, and we continue to work to fill those positions. As you can imagine, recruiting and training this many new staff (we have actually hired 14, since we lost three staff over this period) has been a major effort. We are currently experiencing some growing pains (our shortage of office space is foremost among them), but we are excited by the expectation that the addition of all of this new talent will help us do an even better job of protecting the Region's water quality.

Gerard J. Thibeault
Executive Officer